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11th February 2022

CONSULTATION – OFCOM’S PROPOSED PLAN OF WORK 2022/23

I welcome the opportunity to comment on Ofcom’s Proposed Plan of Work 2022/23. This response covers my own portfolio interests, particularly in creative industries, broadcasting and media. I am aware that other Scottish Ministers may also provide comments from the perspective of their portfolios.

At a time of increasing challenges to public service broadcasting and the distinct and essential services the broadcasters provide to audiences and the creative production sector in Scotland and across the UK, I value Ofcom’s initiatives to improve and support public service media. I welcome Ofcom’s priority to support UK-based public service media, including high-quality national, regional and local news and current affairs. Ensuring public service media remains available and prominent to people across Scotland and all nations of the UK is critical. In particular, the Scottish Government welcomes Ofcom’s strong appreciation that national, regional and local broadcasting services should reflect the diversity of audiences across all UK regions and nations.

Ofcom states that public service media needs to evolve in the face of competition to provide content which is valued by audiences and reflects UK lives. I recognise the need to encourage innovation and evolution in a way that protects the value of public service media and commits to delivery for each part of the UK so that a more reflective and authentic system can be delivered for Scottish audiences. I wholeheartedly agree that a vibrant creative economy is built on its diversity with a mix of large and small companies, based across the whole of the UK. It would be helpful to understand Ofcom’s specific plans for improving the diversity of the creative sector in Scotland through 2022/23.

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The BBC is extremely important to developing the creative industries in Scotland and I welcome continued commitment in the Plan of Work to assessing whether the BBC is fulfilling its duties and delivering for audiences in Scotland. Trust in the BBC has been lower in Scotland than in other nations in recent years with BBC portrayal of Scotland scoring low with audiences. I will continue to urge Ofcom to ensure that audiences in Scotland receive a more representative service that supports the creative economy in Scotland and contributes to its development.

This will be particularly important as Ofcom begins its first periodic review of the BBC, looking at the extent to which the BBC is fulfilling its mission and promoting each of its public purposes. The Plan of Work states that Ofcom will identify themes and issues for the future regulation of the BBC and reflect on future strategic challenges with a report submitted in spring this year. Similarly, as Ofcom considers how the BBC operating licence should evolve I look forward to further engagement on these important issues. A strong publicly funded BBC is vital to maintain investment in Scottish produced content to support the creative industries in Scotland, and to develop Scottish-based talent and companies.

The work to progress the relicensing of the Channel 3, Channel 4 and Channel 5 services is important in Scotland and we are keen to engage with Ofcom and to ensure that stakeholders in Scotland are fully involved in process to ensure these important services, which are really valuable to the creative industries and audiences in Scotland, are protected and strengthened.

Diversity

As well as the report on the BBC, I welcome Ofcom's continued delivery of reports on media use, including attitudes and understanding of adults and children. On its work on diversity in broadcasting, Ofcom's five year review of diversity and equal opportunities in the TV and radio industries highlights a general trend towards an industry which is more representative of the UK, but that there is still a long way to go and there are still gaps on information provided by broadcasters. The Scottish Government fully supports Ofcom's priority to increase diversity in television and radio and we fully support the work to address critical areas of under-representation, including ensuring broadcasters gain a better understanding of socio-economic and geographic diversity, and to further improve data collection both in quantity and quality.

I understand that Ofcom will suspend its usual reporting process in 2022 to focus on refining its approach to data collection and Ofcom will launch a call for inputs regarding the information it collects from broadcasters in Spring 2022. This will seek views from a range of stakeholders in order to review and provide updated guidance on what data should be collected and how. We have previously made the case for data on diversity and equal opportunities in television and radio to be broken down by nation to allow for better understanding of any concerns from a Scottish perspective and we will commit to helping in every way we can to ensure that stakeholders in Scotland can engage fully with Ofcom on this work.

Radio

We welcome the work to deliver improvements to small-scale DAB, analogue community and commercial radio coverage. Maintaining and developing a radio network in Scotland that meets the specific needs for both urban and rural areas across the country, is key to ensuring audiences in Scotland are kept informed and entertained.

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Broadcasting and Scotland's languages

The Scottish Government attaches particular importance to the support for the Gaelic language and how the language can continue to be sustained and grow. For this reason I would welcome broader reference to Gaelic to help address the imbalance that is sometimes seen in the consideration given to Gaelic and Welsh. As you will understand, the output being produced contributes to the learning and use of the Gaelic language and it is a vital part of the fabric of what will serve and sustain the Gaelic speaking community in Scotland. I note the reference to MG ALBA and appreciate its inclusion, however it would be helpful to expand further and certainly recognition of the various strategic challenges it faces looking forward would be a helpful addition. This recognition could be combined with a commitment to encourage and support both MG ALBA and the BBC in taking steps and planning actions which they might need to take to respond to and make progress with the strategic challenges of Gaelic broadcasting.

The inclusion of a reference to support the UK's indigenous languages and the role of MG ALBA and others signals a contemporary Ofcom interest and some measure of priority to do what it can in supporting the Gaelic language and others. This would be an important and continuing part of a diverse, pluralistic future broadcasting landscape in Scotland. Such a commitment would sit comfortably alongside any reference to the importance of indigenous languages broadcasting in the UK and the Scottish Government would also support and encourage this. The Charter Framework Agreement (2016) gives Ofcom a range of significant powers to investigate and comment on BBC matters. Ofcom, on occasion, has asked the BBC questions about its support for BBC ALBA. This is welcome and an acknowledgement that this is a legitimate Ofcom role and function would also be welcomed and encouraged.

Online regulation

The Scottish Government welcomes Ofcom's commitment to protecting audiences from harm on TV and radio and in fulfilling its duty to ensure UK-established video-sharing platforms take appropriate measures to protect children. We look forward to continued engagement as Ofcom continues its preparations for new, wider powers to improve online safety, and in particular when further detail on its plans to implement online safety regulation are published in the first quarter of 2022/23.

The proposed Plan of Work states that Ofcom will be growing its skills and capabilities, particularly with new duties for cyber and online safety and that it is committed to having a workforce that is representative of the population of the UK. We understand that Ofcom will be growing its presence in its offices across the UK including Edinburgh and we are interested to understand Ofcom's plans for expansion in Edinburgh in 2022/23.

In relation to net-zero emission targets, Ofcom has said that it will examine how it can help governments across the UK and we will be interested to ensure that Ofcom is engaging with the relevant parts of Scottish Government to develop meaningful engagement on this important matter.



Angus Robertson

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CONSULTATION – OFCOM'S PROPOSED PLAN OF WORK 2022/23

I welcome the opportunity to respond to this Ofcom consultation on the proposed Plan of Work for the forthcoming year, 2022/23. This response covers my own portfolio interests – but specifically in relation to digital connectivity.

A green and resilient economic recovery from the impacts of COVID-19 will only be possible if future-proofed, high-quality digital infrastructure and services are available right across Scotland. The Scottish Government has funded, developed – and is delivering – programmes that will provide both of those, despite relevant legislative and regulatory powers being reserved to UK Ministers. However, the work of Ofcom in delivering an effective and efficient regulatory regime is also key.

With this in mind, I largely welcome Ofcom's proposed priorities outlined for the year ahead. However, given our desire to see a substantial increase in gigabit-capable full fibre broadband coverage in Scotland, I am keen to better understand how Ofcom is using its findings from the Wholesale Telecoms Fixed Access Review 2021-26 to assist in the delivery of the UK Government's Project Gigabit.

As outlined previously, we welcome Ofcom's commitment to delivering a regulatory framework that more clearly aligns national regulation with needs at a regional level and to reflect the needs of devolved nations, and it is ever more important that the regulatory regime is able to respond in an agile manner to any challenges that may arise. As always, I welcome regular engagement between our officials on this.

I also note that Ofcom will continue to monitor delivery of the Universal Service Obligation (USO). As highlighted in previous consultation responses, and as detailed in the latest Connected Nations report published in December 2021, the USO continues to have limited impact in Scotland, as the cost cap of £3,400 per connection does not reflect the higher

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costs that some customers in remote, rural and island areas will face to obtain that connection. In order for Scotland's more remote and rural communities to benefit from the USO, consideration should be given as to how the scheme could potentially be adapted to work more effectively alongside other demand-led interventions, such as our Reaching 100% (R100) Scottish Broadband Voucher Scheme or the UK Government's Gigabit Broadband Voucher Scheme.

A common theme I see in correspondence from the general public is that availability and clarity of information is of great importance, particularly in allowing them to decide how to proceed with procuring a broadband solution. You will be aware that our R100 online address checker now provides some of that clarity when it comes to letting people know if and/or when they can expect to receive a superfast broadband connection.

However, I am pleased to see that Ofcom plans to begin publishing data related to the performance of different residential fixed broadband services and how they vary by a number of factors – including technology, service provider, package, geography and time of day – later this year. Tailored information of this kind could allow for any future interventions, such as those delivered through Project Gigabit, to be more effectively targeted.

Of course, access to good quality mobile connectivity remains equally as vital as access to broadband, particularly in Scotland's more hard-to-reach areas. We welcome the overall ambition of Ofcom's future mobile strategy, but stress that it must serve to facilitate the delivery of improvements to all of Scotland – in particular, rural, remote and island communities – and, accordingly, consider the appropriateness of regulation at a more granular level than in the past.

We acknowledge that initial discussions on the mobile strategy took place with Scottish Government officials in 2021 who stand ready to be involved in the further development of the strategy – including how it relates to spectrum management – as do our colleagues in the Scottish Futures Trust and the Scotland 5G Centre.

We also welcome that work is to be undertaken to verify accuracy of mobile network operator (MNO) coverage predictions as, from time to time, the Scottish Government has heard anecdotally, that there is variation in the accuracy of these predictions. We value Ofcom's general work in this area and understand its current role in monitoring the MNOs fulfilment of their Shared Rural Network (SRN) coverage requirements. However we feel that there could also be a role for Ofcom to work collaboratively with DCMS and the MNOs around greater transparency of expected SRN coverage uplift – for both the partial and total notspots elements of the programme.

You will be aware that the new Consumer Scotland body is due to be established in Spring this year. I understand that engagement at official level is already taking place between Ofcom and the Consumer Scotland Implementation Team around how the two bodies can work together going forward including in relation to telecoms consumer advocacy and advice.

You are no doubt also aware that the Scottish Government has an ambition for Scotland to become a Net Zero nation. Therefore, I welcome the role of communications services in reducing carbon emissions and enabling services such as smart meters. The smart meter roll out in Scotland continues to be delayed by communications issues, as Wide Area

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Network connections to the Arqiva system are too often unavailable, and consumers remain locked out from the benefits smart meters can provide.

Continued collaboration between the Scottish Government and Ofcom will play a key role in delivering the regulatory regime that ensures a green and resilient economic recovery. Upon review of this year's plan of work, I believe that Ofcom recognises there is still a substantial amount of work needed to ensure universal access to future-proofed high-quality digital infrastructure across Scotland. I look forward to working together with you to help deliver that.

Yours Sincerely,



KATE FORBES

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