

## **Ofcom's Proposed Plan of Work 2022-23– response from the Welsh Government**

The Welsh Government welcomes the opportunity to comment on *Ofcom's proposed plan of work 2022-23*. We also welcomed the online event held by Ofcom to discuss the plan of work. However the change of format from previous years, from individual devolved nation sessions to a general UK focussed discussion with breakout devolved nation discussion, somewhat lost the opportunity for targeted discussion pertinent to Wales.

We will provide comments below on the areas of Ofcom's proposed priorities and work plan which are of importance to the Welsh Government.

### **Working with Ofcom**

The continuation of the COVID-19 pandemic has again highlighted the need for timely and efficient engagement with key stakeholders and the continued value of a strong and effective relationship between Welsh Government and Ofcom.

We would welcome the addition of a commitment to Wales on providing technical and regulatory advice, as well as relevant data (where appropriate), to help the Welsh Government to deliver our key telecommunications infrastructure projects and ensure as smooth an interaction as possible with other publicly funded schemes in line with the commitment to Scotland.

We are encouraged by the significant progress in building on expertise in telecoms, broadcasting and spectrum and in the proposed expansion of the presence in Cardiff, with an increased focus on recruitment from within Wales. We note the intention set out in the proposed Plan of Work to strengthen Ofcom for the future, and to continue to diversify the workforce both geographically and in the skills and expertise available. The Welsh Government is keen to ensure the Cardiff office benefits from these plans in a targeted way, so that the office is resourced effectively, and relevant skills keep pace with the speed of change. This is essential to ensure staff are able to effectively deliver in their roles furthering the interests of Wales at a UK level. We welcome the ambition to increase representation from minority, ethnic and disabled communities as well as a greater proportion of women within the workforce. We note the planned publication of Ofcom's diversity and inclusion strategy in 2022 and would be keen to understand Ofcom's diversity plans at a Wales level.

We welcome Ofcom's continued commitment to engage with stakeholders in Wales, in both Welsh and English, to understand priorities and concerns, and the commitment to further support Wales' creative sector as it keeps pace with changes in audience demands. We also welcome commitments in developing programmes of work relevant to Ofcom's responsibilities set out on the draft Online Safety Bill.

The Welsh Government is also encouraged by the commitment to continue work with communities across Wales experiencing digital communication difficulties, and the support of the Welsh Government's *Barrier Busting Taskforce* in helping to reduce obstacles to communication network rollout.

The Welsh Government will continue to liaise regularly with both David Jones as the Ofcom Board Member for Wales and colleagues at Ofcom Wales to ensure that the interests of Wales are appropriately represented. We recognise the invaluable contribution of the Ofcom Advisory Committee for Wales; the Content Board Member for Wales; and the Communications Consumer Panel Member for Wales.

The proposed Plan of Work highlights Ofcom's intention to build relationships with key partners and stakeholders to learn and exchange best practice. The Welsh Government welcomes Ofcom's commitment to invest in international relationships to support delivery of its ambitions and suggests examples of countries with similar characteristics to the UK, including countries with minority languages are considered as part of this work to identify potential solutions to current challenges.

### *Memorandum of Understanding*

The Welsh Government welcomes the engagement to date with Ofcom on the review of the Memorandum of Understanding (MoU) which outlines the relationship between the UK Government, the Welsh Government, Senedd Cymru and Ofcom. We are keen to finalise the review of the MOU during coming months, to update the document and further strengthen our relationship with Ofcom, recognising Ofcom's independence from government.

### **Broadcasting**

The broadcasting landscape is rapidly changing and, while the value of quality, trusted broadcasting to audiences has never been clearer, questions have been raised as to the appropriateness of the current regulatory framework and its ability to meet the needs of audiences in Wales. As one of the areas covered in the Co-operation Agreement the Welsh Government has entered into with Plaid Cymru, work to ensure the broadcasting and communications framework is effectively serving the needs of Wales and our ambitions for the Welsh language is a key priority area for the Welsh Government. Our comments on the Ofcom's broadcasting priorities as set out in the proposed Plan of Work 2022/23 should be considered in the context of these commitments, and the Welsh Government is keen to work with Ofcom as an important stakeholder as our plans develop to support a system that delivers for Wales.

We welcome Ofcom's commitment to support the evolution of the regulatory framework for public service media, to ensure audience interests are served with a fit for purpose system, at a time where the ever increasing choice of content from TV, Radio and online services demands a greater level of accountability. This includes ensuring parity across linear and online channels, which is an issue that has been raised with us by broadcasters in Wales, and we welcome Ofcom's commitment to driving higher safety standards online.

Following the Welsh Government's consultation response to the now published *Small Scree: Big Debate* report, we also welcome the commitment to continue working with UK Government and industry to ensure that regulation keeps pace with ever changing audience habits. This includes action to ensure content remains available and prominent to the public across the nations in an increasingly global,

competitive marketplace, which is a matter raised with us by stakeholders in Wales. We look forward to working with Ofcom over the coming year to ensure recommendations and proposals from the report reflect the needs and characteristics of Wales, including in relation to the Welsh language.

It is also vital that Ofcom continues to fulfil its obligations in relation to public service broadcasting in Wales, including those related to ITV Cymru Wales, S4C and Channel 4. We welcome the commitment to continue work to set and enforce content standards. As noted in our discussions with Ofcom during pandemic period, examples of misreporting of information by broadcasters and an English-centric approach to content have had a significant impact on Welsh audiences. We look forward to seeing the outcome of Ofcom's review on this matter and working with Ofcom to address any issues and identify actions to reduce the risk of this occurring in future as part of its focus on serving and protecting audiences as set out in the plan.

In all its work, it will be essential that Ofcom provides sufficient opportunities to engage with audiences across the UK to highlight differences, including the importance of the Welsh language to meeting audience needs in Wales.

#### *Ofcom's role as external regulator of the BBC*

We welcome Ofcom's plans to continue to monitor the duties of the BBC, as the UK's largest PSM provider, especially the requirements of its operating licence and the implications this has on content and coverage relevant to Wales. We note engagement to date on the review of the BBC operating licence for Wales. We are keen to continue working with Ofcom to consider how the operating licence should evolve to reflect changing audience requirements and to support a licence that is fit for purpose in Wales.

We will also work with Ofcom on matters concerning the mid-term review of the BBC Charter in 2023, specifically in relation to the requirements of its services to all parts of the UK and its implications for Wales. We note the funding of the BBC is not a matter for Ofcom, however, any work related to the current and future regulation of the BBC and S4C will need to be considered in the context of recent UK Government announcements on the funding settlement and future of the TV licence fee, given its impact.

We will collaborate to identify themes and issues for possible future regulation pertinent to Wales and work to make sure that the requirements of Welsh audiences are considered.

#### *Assessing the role of commercially-funded PSM providers*

The Welsh Government will work closely with Ofcom in any review of commercially-funded PSMs, given their intrinsic benefits to the creative sector in Wales. The Welsh Government's MoU with ITV sets out our commitments to ensure shared visions for operations in Wales and relationships with businesses within the sector in Wales and we will work to ensure that all PSMs evolve to reflect audience demand as well as to further support the wider creative sector in Wales.

We will also work to secure assurances that any proposed changes by UK Government to the Channel 4 operating model are fully scrutinised to identify and mitigate inevitable impacts on the creative industry supply-chain in Wales.

### *Radio*

The COVID-19 pandemic has highlighted the importance of radio to keeping audiences in Wales entertained and informed.

The Welsh Government welcomes the opportunity for stakeholders to, where appropriate, continue to make changes to radio licences to ensure continued, relevant broadcast. We also welcome the licensing of new small-scale DAB digital services throughout the UK and the continued work with community and local radio stations broadcasting on analogue licenses. We would be keen to work with Ofcom to maximise opportunities for community stations in Wales to benefit from the Community Radio Fund.

### *Diversity*

The media industry in the UK has, historically, marginalised or excluded many people and communities. Wales is an increasingly diverse nation but this diversity should be better reflected in television and radio. Broadcasting that isn't reflective and representative of all audiences and their communities runs the risk of fragmented conversations, culture and politics with a potential for serious consequences for Welsh society.

Taking action to increase diversity in the creative industries has been highlighted as an important action by stakeholders in Wales in our engagement on our Race Equality Action Plan. The Welsh Government welcomes Ofcom's focus on addressing diversity in the sector and commitment to obtaining a view of the issues. We would be keen to work with Ofcom in the securing and scrutiny of data to shape a vision for future improvements as it takes forward its vision and recommendations following its diversity in broadcasting review to support improvements in the industry in Wales.

### *Accessibility*

We note Ofcom's work on accessibility of content to disabled people and those with sight and / or hearing impairments. We would be keen to engage with Ofcom on its work with the UK Government during the plan period to introduce new accessibility requirements to ensure they meet the needs of audiences in Wales, across channels.

## **Investment in strong secure networks**

### *Mobile Strategy*

The proposed mobile strategy needs to deliver for Wales. Even after completion of the Shared Rural Network 20 per cent of the Welsh landscape will be without coverage from all four operators considerably lower than England or Northern Ireland, Ofcom need to use all of the levers available to them to address this continued inequity.

Growing numbers of premises in rural areas rely on 4G broadband for home broadband connections. Ofcom's spectrum policy needs to enable the use of existing spectrum frequencies, particularly in rural areas, to support access to fast and reliable mobile broadband at home. In particular by ensuring routine access to higher frequency bands (bands 1, 3 and 7) that support high speed broadband. We expect the roll-out of 5G to inform the 4G rollout, and therefore to shift to a model of routine deployment of both lower and higher frequency bands to cater for home workers, and particularly to cope with large visitors in rural areas, which negatively effects fixed mobile broadband speeds for local citizens and businesses.

We believe that a one size fits all approach to regulation does not work for the remotest areas of the country. In developing the mobile strategy Ofcom needs to consider how geographically differentiated regulation could play a part in improving mobile connectivity in rural and very rural areas of the UK including in Wales. A precedent has already been set for this approach through the changes to regulation resulting from the Wholesale Fixed Telecoms Market Review 2021-26.

## **Getting everyone connected**

### *Fast and reliable broadband*

Despite the efforts of the Welsh Government through the Superfast Cymru intervention too many premises in Wales remain without access to fast and reliable broadband. Ofcom needs to look again at how it can use further levers available to it to address these final few per cent. The regulatory focus on competition does not seem appropriate for these hard to reach premises, the focus needs to shift to addressing availability.

### *USO*

Welsh Government remains concerned that the Universal Service Obligation (USO) will not deliver connectivity to homes and businesses in Wales that are most at risk of being overlooked. The investigation into BT's approach to apportioning network costs under the USO was welcome as is the commitment spread those costs more fairly across premises in an area. However, the premises cost cap still does not reflect the reality of the cost of providing a sustainable broadband solution in the most rural areas of Wales. There are still too many premises that fall outside of the scope of the USO. This needs to be addressed as a matter of urgency.

In implementing the universal broadband service the proposed plan of work states that Ofcom will monitor the work of BT and KCOM and whilst welcoming this commitment we believe that there needs to be a commitment to an annual review of and adjustment to the working and effectiveness of the USO.

### *Migration to voice over IP*

We retain a number of concerns about the impact of the PSTN switch off and migration to VOIP on the ability of residents and businesses to continue to contact the necessary authorities in the event of a power cut and of the impact on life and limb services. We welcome the requirement by network providers to ensure that a small timeframe to connect to emergency services will exist but would question whether this is sufficient. We argue that work should continue to identify and address all potential risks and issues. We believe that as the migration rolls out, the network providers need to ensure that the process of identification and subsequent remedying of issues is robust and that Ofcom has a key role to play in assessing their progress.

### *The future of 2G/3G networks*

The sunset of 2G and 3G needs to be carefully planned and managed. There are still consumers, business and monitoring uses that rely on 2G and 3G connectivity. For example, consumers in rural areas that do not have access to 4G and so depend on earlier generations to stay connected for voice and text services, withdrawing 2G in particular would mean they are less connected than they are now.

## **Underpinning wider work across the sectors we regulate**

### *Sustainability and climate change*

We note the commitment in the proposed Plan of Work to continue to engage with Ofcom's sectors on sustainability and contribution of the sector to achieving net-zero carbon targets.

Ofcom needs to have a stronger focus on challenging the telecommunications and broadcasting industry on tackling climate change and improving sustainability to contribute to the momentum towards achieving the UK's net-zero carbon target. Ofcom needs to investigate how it can use the regulatory powers it holds and then to use its powers to convene and gather data to drive the changes needed to bare down on carbon emissions produced by the sector. The narrative in this space needs to move away from citing sector level or industry level contributions around enabling home working, reducing the need to travel, etc. to a more granular focus on proactive efforts by all companies within the sector or industry to evidence their individual contributions to this call to arms.

## **Project Work**

### *Improving consumer information on mobile coverage and performance*

We welcome plans to improve how information on mobile coverage and performance is gathered and shared. Currently it is difficult to gain a meaningful picture of mobile connectivity across Wales which impacts on the ability of public bodies to develop interventions in the mobile market to address market failure.

## **Online Safety**

The Welsh Government welcomes the positive engagement to date with Ofcom on this area of work. It is critical this engagement continues as Ofcom develops its work in this area to ensure its plans as set out in the consultation document reflects priorities in Wales and recognises differences in devolved areas, such as education and the curriculum, safeguarding and the Welsh language. As research is undertaken in this area we would expect this to capture views and online behaviours and attitudes from across the UK.