

The Carphone Warehouse Group PLC
1 Portal Way
London
W3 6RS
t 020 8896 5000
f 020 8896 5005
www.carphonewarehouse.com

NON-CONFIDENTIAL VERSION

Marco Marini
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

16 February 2009

Dear Marco,

Draft Annual Plan 2009/10

I am pleased to set out below our brief comments and observations on Ofcom's draft Annual Plan for next financial year. Thank you for the short extension for submitting these comments.

The draft annual plan states that Ofcom will "*promote competition in fixed telecoms.*" We agree wholeheartedly with this objective but also believe that the draft Annual Plan does not go far enough in terms of articulating how Ofcom will go about achieving it. We believe that competition issues arising from the migration by operators to next generation networks ("**NGNs**") will come into increasingly sharp focus in the coming year which will necessitate a clear and focused plan by Ofcom to ensure that existing competitive distortions are removed and that new ones do not arise.

We believe that Ofcom must create a policy and regulatory framework that supports the migration to NGNs by updating its existing policy of promoting network based competition as articulated in the outcome of the Telecommunications Strategic Review in 2005. That framework was based on the prevalent network-based competitive model at the time – broadband only based on SMPF. Since then, the world has moved on to an NGN world where networks support voice and broadband services and Ofcom's policy and

regulatory framework needs to keep pace else it will become increasingly obsolete and ineffective.

In formulating and implementing its policy, we believe that Ofcom's economic regulation work needs to include the following areas:

- **[deleted]** In particular, we believe this means that Openreach needs to develop and offer voice only MPF ('xMPF'), business grade MPF and improved co-mingling products. More generally Ofcom has to find a way to ensure that Openreach develops and innovates in the interests of its customers.
- **[deleted]**
- In the context of the narrowband market reviews, Ofcom needs to ensure that fixed operators are able to make an adequate and appropriate return on their investment as part of the call termination rates they are allowed to charge to other operators, whether on TDM or IP. Operators like Carphone Warehouse who have made a timely and ordered transition to NGN should not be financially disadvantaged simply because other operators have been tardy in making the same transition.
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Separate from our concerns around the approach to economic regulation, we would like to raise some specific points around Ofcom's consumer policy work. We believe that Ofcom needs to be more forward-thinking when it comes to consumer protection issues and give communication providers some idea of what Ofcom is planning to deliver in this area. By doing this, Ofcom can avoid being swayed by political pressures on ad hoc issues and create a more predictable regime that can only benefit consumers and businesses alike. In this context, we welcome Ofcom's recent decision to consult on the removal of Topcomm and replace with something much more efficient in terms of consumer protection. However we believe that are other areas where the need for specific telecoms consumer regulation is unproven and this is something we believe Ofcom needs to look at in detail. We would be happy to contribute with more specific ideas in this area in the year ahead.

Lastly, we would strongly encourage Ofcom to find ways of carrying out its duties more speedily. There are, in our view, too many cases of projects which have been dragging on for far too long and, in some cases, years. The slow conclusion of these projects has a number of significant downsides including: living with the old (and presumably out of date) regulation for longer; uncertainty for stakeholders; wasted cost for Ofcom and ourselves; and the opportunity cost of not doing other projects. **[deleted]**

Yours sincerely,

Rickard Granberg
Head of Telecoms Regulation