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Dear Kristina

Ofcom Draft Annual Plan 2007/8

THUS is pleased to respond to Ofcom's consultation on its draft annual plan 2008/9.

1. What are your views on the continued relevance of Ofcom's three-year strategic framework for its work in 2008/09?

We believe the five key areas of focus continue to provide a sensible means of structuring Ofcom's overall work plan. We would encourage Ofcom to put particular emphasis on promoting competition and innovation in converging markets.

2. What are your views on Ofcom's proposed policy work programme and top priority areas for 2008/09?

We would like to see specific reference to improving the effectiveness of Ofcom as a competition authority. Ofcom should take steps to improve its performance at managing and resolving disputes and complaints. In particular we would urge Ofcom to include within its workplan a review of how it conducts C Act investigations and what measures could be taken to ensure speedier conclusion. A number of key Competition Act investigations have lasted several years (eg. BT's charges for NTS call termination which is still ongoing), leading to a loss of confidence in the Competition Act as an effective and timely source of protection against abusive behaviour. With Ofcom now extending the C-Act enquiry phase to eight weeks there appears to be a great reluctance for Ofcom to take on new investigations. The length of the enquiry phase also makes the prospect of interim measures remote, with Ofcom unlikely to act until many weeks after a complaint is received. We would welcome clarification from Ofcom on how it would deal with a request for interim measures and an indication of the timetable it would adopt.

While we understand the importance of conducting Market Reviews and fully support the work that Ofcom is proposing to undertake in reviewing the fixed narrowband market and the ongoing

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work in the area of business connectivity, we feel that this should not leave Ofcom unable to deal effectively with pressing issues faced by alternative providers. For example issues such as excessive CPS transaction charges where alternative providers are placed at a commercial disadvantage compared to BT Retail, and PPC pricing (where there is significant evidence to suggest that BT is over-recovering) have been outstanding for a number years.

We would also like to highlight the importance of business and enterprise customers both to the UK Economy and the communications sector. We feel Ofcom should put more emphasis on the particular needs of business users which are often quite distinct from those of consumers. Many of the end-user benefits Ofcom's is striving to achieve will only be achieved by ensuring that the enterprise sector has a thriving and competitive array of alternative offerings from a competing providers.

We have a number of detailed comments on the proposed work plan:

- We welcome the emphasis on ensuring that BT implements its undertakings effectively (page 29). We believe it would also be appropriate for Ofcom to review the effectiveness of the undertakings themselves, and consider where it might be appropriate for Ofcom to seek modifications or amendments.
- We welcome Ofcom's continued commitment to the restructuring of SLAs and SLG such that Openreach's incentives are better aligned to the delivery of high-quality services (p 29). However, we believe the scope should be extended to include SMP products provided by BTW as well as Openreach.
- We welcome Ofcom's recognition of the importance of promoting competition in next generation networks. The proposed work on modifications to the regulatory regime (new market definitions, new wholesale product specifications and appropriate pricing) is particularly important to provide the necessary certainty to underpin investment in next generation networks and interconnection.
- We would urge Ofcom to review the way it makes use of BT's Regulatory Accounting information. When relying on BT's regulatory accounting output Ofcom must ensure that a consistent methodology is adopted. For example, if a charge control relies upon BT Regulatory Accounting output, and the charge control itself is based on a different set of assumptions then a series of adjustments would be required to ensure consistency. We would also like to see Ofcom make use of its ability to require the auditors of the regulatory accounts to undertake further work on specific areas of BT's costing processes.

3. Are there additional areas in which Ofcom should consider reducing regulation and work to minimise administrative burdens? Please provide specific examples.

We believe that Ofcom should take the opportunity created by pre-call announcement review to think again about its proposals for the 0870 range. The introduction of the 03 range has changed the NTS landscape significantly and we don't believe that Ofcom has any requirement to carve out the 0870 range and make it subject to additional regulation. Retaining the NTS condition

would provide continuity, align with the numbering plan and prevent many businesses from having to go through a disruptive number change.

4. Are there additional areas of international policy development that Ofcom should be contributing to? Please provide examples..

No Comment.

Yours sincerely

Colin Scott
Head of Regulatory Pricing