



Kristina Glushkova
Strategy and Market Developments
Ofcom
Riverside House
2A Southwark Bridge Road
London
SE1 9HA

19 February 2008

Dear Kristina,

Draft Annual Plan 2008/9

I am pleased to set out below the comments of the UK Competitive Telecommunications Association (UKCTA) on Ofcom's Draft Annual Plan 2008/9.

UKCTA believes that Ofcom should be giving priority to the following issues during the next financial year.

1. The BT Undertakings are in need of an overhaul (rather than just monitoring) to ensure that they reflect changing commercial and technological market circumstances. The Undertakings should be relevant to support the competitive process.
2. We have welcomed the proposed changes to Openreach's SLAs/SLGs and it is now important that Ofcom sees through this important piece of work by carefully monitoring that Openreach implements the new requirements in an appropriate fashion and, importantly, that the new requirements have the desired impact on Openreach's performance.
3. UKCTA is concerned about the apparent lack of focus within Ofcom on the business markets and the level of appropriate regulation of BT in these markets. UKCTA will be addressing this area in more detail in the next financial year.

4. UKCTA would emphasise the need to conclude the business connectivity market review as soon as possible to provide certainty to all market players. In particular, Ofcom needs to ensure that the price control consultation is concluded on an expeditious basis.
5. We are concerned that the current Ofcom work stream to develop a single migration process is taking so long to reach any sensible conclusions. We are aware of the forthcoming Ofcom consultation but the recent Deloitte report is a cause for concern that we may still be some way off from producing a single migration process that can provide the desired level of consumer protection whilst supporting a competitive market place.
6. As BT comes under increased competitive pressures, we are concerned that it will come up with more and more “innovative” ways to prevent customers churning. By way of example, the recently announced changes to BT’s terms and conditions using an “opt-out clause” to tie the customer in to a further 12-month contract term represent an increasingly aggressive commercial approach from BT which Ofcom needs to address.
7. We believe that Ofcom needs to ensure that its work on reviewing the general conditions of entitlement is not further delayed. This is an important policy project which affects all players in the market. We look forward to discussing these matters when Ofcom issues its consultation document.
7. It is important that Ofcom actively guides the industry, including BT, as to the appropriate type and level of regulation of NGNs and NGAs. Ofcom needs to take a more interventionist approach rather than wait for BT to suggest solutions that industry cannot accept and need to refer to Ofcom for dispute resolution. UKCTA does not believe that the 4-month dispute resolution window is the appropriate way of deciding key features of NGN/NGA policy (e.g. NGN conveyance pricing) which are necessary to provide necessary guidance to investors.
8. We would like Ofcom to review the way it uses BT’s Regulatory Accounting data. When relying on BT’s regulatory accounts Ofcom should ensure that a coherent methodology is used. Where, for example, a charge control makes use of the regulatory accounts as an input then the same set of assumptions should be used in both the accounts and the charge control, with any differences corrected through a series of adjustments. We would also like to see Ofcom make use of its power to require the auditors of the Regulatory Accounts to undertake further work on specific areas of BT’s costing processes. To our knowledge Ofcom have yet to make use of this facility.

9. In general terms, we are concerned that Ofcom's work may be suffering from inadequate levels of competent resources and procedures. There remain a lot of competition problems in the market which will continue to need attention and practical solutions. In the current financial year, we have seen several competition policy projects being delayed due to resource constraints and lower prioritisation while Ofcom appears to be focusing efforts on consumer policy projects. We do not believe Ofcom is getting the balance right and Ofcom needs to commit management resources and budget to ensure competition issues are addressed in an adequate manner.

UKCTA looks forward to working with Ofcom on the above issues in the coming financial year.

Yours sincerely,

Rickard Granberg