

## **BT's Response to Ofcom's Draft Annual Plan 2007/8**

### **Introduction**

The Ofcom Annual Plan is an important document for stakeholders as it sets out Ofcom's policy framework for the following three years and priorities for the forthcoming year. We welcome the revised format of setting the top level priorities and leaving the detail to the next stage of publication, once all comments have been received and reviewed. As part of this process, and in line with previous years, we believe that the national and regional stakeholder meetings have been very helpful in enabling Ofcom to hear what really matters to consumers and industry.

### **Summary**

We believe that both the strategic and 07/08 priorities in Ofcom's Plan address the right areas and successfully capture the trends in the marketplace. Clearly a great deal of planning has gone into the document and our following comments are intended to help with more detail and fine-tuning.

The Plan's overall theme is regulating for convergence and we believe this is the right focus and approach. Convergence is happening now and it is crucial that regulation does not distort competition by applying different rules to different platforms carrying similar services. New sources of market power continue to emerge and therefore any review needs not only to consider this but also look at where existing regulation will no longer be appropriate. The application of regulation in a converged world is an important theme which impacts across new and traditional services and players in the marketplace. As business models evolve, often rapidly, so the regulatory regime should be flexible to ensure that all parties are able to compete effectively and fairly to the benefit of consumers.

We support Ofcom's decision to consult on the priorities for 2007/08 and the three-year period before finalising the detailed work-packages and milestones. Given the importance however of the detail, it would be beneficial to have an opportunity to comment on the workpackages themselves before they are finalised. This would ensure that our thinking and timescales associated with specific projects was aligned where appropriate.

### **Specific Comments**

1. Question 1 asks for views on Ofcom's proposed three-year strategic policy framework. We believe that the plan has successfully captured the priorities for the three-year strategic policy framework and takes into account the main market trends. We particularly support moves towards consistent legal and economic frameworks that should create consistency between different platforms and promote competition. This is a three-year programme and one where we would be keen to see the deliverables and milestones in the underlying workpackage.
2. Also in relation to the three-year priorities, we strongly support the priority to reduce regulation and administrative burdens. The regulatory regime needs to reflect the nature of changing markets - changes in technology, low barriers to entry and changes in customer buying patterns have all led to new market trends in a highly competitive marketplace.

3. Question 2 asks for views on the priorities for 2007/8 and the supporting work to achieve these priorities. Overall, Ofcom has successfully identified the main areas and the underlying supporting activities but have the following additional comments:
4. There is no clear mention of the business markets which are key to many Communications Providers and the UK more generally. Ofcom has confirmed that the term “consumers” includes businesses of all sizes, but given their crucial role towards the wellbeing of the UK economy, we would recommend that specific mention be made of the business markets.
5. **“Driving forward spectrum liberalisation and trading – p26”** With regard to the review of spectrum pricing and the release of further spectrum, spectrum will clearly play an increasingly crucial role in future and we fully support Ofcom’s plans. We feel it important to ensure clear timescales and deliverables are set out in the underlying workpackages and that all efforts are made to keep to the timescales.
6. **“Driving forward spectrum liberalisation and trading: additional policy projects – p27”** In relation to spectrum management, Ofcom is planning for the 2007 Tour de France and 2012 Olympics. We believe that the Olympics in particular would benefit from an Ofcom workpackage for all aspects where regulatory issues may be relevant.
7. **“Promoting competition in converging markets – p28”**
  - Now that the Strategic Review of Telecommunications findings have been implemented in the form of an operationally separate Openreach, it would be timely to look at ensuring a stable economic, and therefore, regulatory environment is in place for consumers, communications providers and Openreach that continues to promote the deepest level of infrastructure competition, innovation and long-term value for all market participants. We therefore look forward to hearing Ofcom’s thoughts on how this might be achieved and inputting our own views in that regard.
  - Conditional Access conditions are set out within section 75 of the Communications Act 2003. Given Ofcom’s plans to manage for convergence, we assume that Ofcom’s plans are to only impose such requirements where SMP or equivalent is found. We feel that the workpackage for this area should have some early deliverables to enable investment decisions to be taken within a stable set of rules.
8. **“Assessing new sources of market power that emerge through convergence – p30”** Ofcom proposes to develop a new approach to the new sources of market power which may emerge through convergence at different points in the value chain. This work is central to regulating for convergence and in addition to identifying new sources of market power, deregulation should be a key focus of this activity, given the dynamic nature of the industry. The scope should encompass all platforms and services, including bundled products and services such as various combinations of broadband, voice, mobile and TV that are routinely offered by the larger brand providers.
9. **“Promoting access and inclusion - p31”** - We are supportive of Ofcom’s proposals regarding universal service. However, we want to ensure that the

planned “ongoing implementation, including a review of the costs and benefits” (p32), is the first priority in 2007/08. Conditions in the UK communications market have altered significantly in recent years such that it is no longer appropriate for the burden to remain solely with the incumbents, and we believe therefore that this review is a necessary pre-requisite to reviewing the USO’s scope. Furthermore, we recognise that a review of scope may be required but believe that it should only occur following completion of the 2006 EU Review, rather than Ofcom considering this in tandem and the resulting additional burden on Ofcom's finite resources.

10. **“Maximising our impact on international policy development – p35/36”** We support Ofcom's policy of engagement at EU level, for example with the ERG and the International Policy Development programme, and would like to see greater harmonisation, consistency and transparency across Europe. There will be differences in how regulation is implemented in member states but we believe that there should be a minimum level of regulation that no member state should fall below.

I hope that the above comments are helpful. We would be happy to discuss any of the above comments.

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13<sup>th</sup> February 2007